

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

FILED

In Re:

FRANK and SYDNEY CHAPIN
Debtors.

) Bankruptcy Case No. 02-20218
) 02-11-16 PM 1 41

) **NOTICE OF RULE 2004**
) **EXAMINATION AND SUBPOENA**
) **FOR DOCUMENTS UNDER RULE**
) **2004**

) Chapter 11
)

TO: MOMENTS, LLC

☒ YOU ARE COMMANDED to appear pursuant to agreement of counsel under Rule 2004, Fed.R.Bank.P., at the place, date and time specified below to testify at the taking of a deposition in the above case.

| | |
|--|--|
| Place The law offices of Elsaesser Jarzabek Anderson Marks & Elliott, CHTD. Third & Lake Streets Sandpoint, ID 83864 | Date and Time May 21, 2002 at 9:30 a.m. |
|--|--|

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list of documents or objects): **See attached Exhibit A to 2004 Subpoena.**

| | |
|--|---|
| Place The law offices of Elsaesser Jarzabek Anderson Marks & Elliott, CHTD. Third & Lake Streets Sandpoint, ID 83864 | Date and Time: May 21, 2002 at 9:30 a.m. |
|--|---|


ISSUING OFFICER SIGNATURE

5-15-02
Date

Title: Counsel for the Estate of Christina Leaf

| | |
|---|----------------------------------|
| Issuing Officer's Name and Address: Michael J. Paukert, ISB: #4327 Paine, Hamblen, Coffin, Brooke & Miller LLP 717 W. Sprague Avenue, Suite 1200 Spokane, WA 99201-3505 | Telephone No.: (509) 455-6000 |
|---|----------------------------------|

PROOF OF SERVICE

| | | |
|--------|--------------|---------------------------|
| SERVED | Date 5/15/02 | Place Spokane, Washington |
|--------|--------------|---------------------------|

| | |
|--|---|
| Served on (Print Name) Moments, LLC | Manner of Service Mailed to Frank L. Chapin Mailed to Sydney Gutierrez Chapin Mailed and Faxed to Bruce Anderson |
| Served by (Print Name) Marsha Ungricht | Title Legal Assistant |

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on 5/15/02
Date

Marsha Ungricht
Signature of Server
717 West Sprague Avenue, Suite 1200, Spokane, WA 99201
Address of Server

Rule 45, Fed.R.Civ.P., Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.

(C) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or any attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance;
- (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend

trial be commanded to travel from any such place within the state in which the trial is held, or

- (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iv) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or
- (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonable compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature and documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

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EXHIBIT A TO 2004 SUBPOENA

REQUESTED DOCUMENTS REGARDING THE ESTATE OF WILBUR A. LEAF:

1. **Copies of U.S. Income Tax Returns for Estates and Trusts - Form 1041 and all supporting schedules for the Estate of Wilbur A. Leaf for the years 1994 through 2001.**
2. **Certificates of Deposits:**

Note: Amounts represent total reported on Schedule C of Form 706. We have received copies of cashier's checks for certificate of deposit accounts, however to account for income earned, we are requesting a complete transaction history for the following certificate of deposit accounts including interest earned, interest rate, maturity date and renewals from the date of December 20, 1993 through the date the account was closed or the current date.

Washington Mutual Savings Account:

| | |
|-----------------------|--------------|
| CD # 171-0001294021-9 | \$ 90,983.37 |
| CD # 171-0001294397-4 | 26,550.82 |
| CD # 171-0001294587-1 | 34,220.41 |

U.S. Bancorp of Washington:

| | |
|----------------------|--------------|
| CD # 117-26-20000459 | \$127,042.37 |
|----------------------|--------------|

First Interstate Bank of Washington:

| | |
|-------------------|--------------|
| CD # 325488 | \$ 10,966.93 |
| CD # 01-1027846-2 | 99,959.84 |
| CD # 01-1027847-0 | 100,947.71 |
| CD # 01-1053496-5 | 111,099.92 |

Seafirst Bank:

| | |
|---------------|--------------|
| CD # 18007528 | \$ 67,920.76 |
| CD # 18007529 | 12,095.81 |
| CD # 18007530 | 18,817.37 |

West One Bank:

| | |
|----------------|--------------|
| CD # 100616742 | \$136,705.35 |
| CD # 2971674 | 43,843.88 |

Pend Oreille Bank:

| | |
|------------------|-------------|
| CD # 1864-502065 | \$ 8,262.14 |
| CD # 1864-503261 | 26,327.87 |
| CD # 1864-514953 | 14,811.68 |
| CD # 1864-515273 | 43,379.69 |
| CD # 1864-516461 | 12,457.45 |
| CD # 1864-519895 | 26,214.65 |

3. Checking Account:

Copies of monthly bank statements, canceled checks, check register and deposit slips for all transactions in this account from December 23, 1993 through the date the account was closed. Provide documentation of closing account, including cancelled check copies, or state the current balance, if open.

| | |
|--------------------|--------------|
| Seafirst Bank | |
| Account # 81641557 | \$143,367.73 |

4. New York Life Annuities:

Copies of statements received from the New York Life companies and a list of all transactions initiated by you from the New York Life companies for the New York Life Insurance policies (annuities) regarding Wilbur A. Leaf (Policy No. N3-201-683) and Christina Leaf (Policy N3-201-681).

5. Merritt Real Estate Contract:

- a. Complete transaction history on the Wayne E. Merritt contract from the date of onset, September 30, 1992 through the earlier of the final pay off amount or the current date.
- b. Provide documentation of how contract was reported on tax returns for Wilbur and/or Christina Leaf, the Estate of Wilbur Leaf, and the Estate of Christina Leaf.
- c. Copy of bank statement indicating verification of payment made March 2, 1997 in the amount of \$90,312.50 to Financial Management Services, Inc.

6. Schedule J:

Copies of invoices and canceled checks to support payments relating to funeral and administrative expenses reported on Schedule J or Form 706.

7. Miscellaneous Property:

Accounting support by check copy and receipts where funds were deposited for the following:

| | |
|-----------------------------------|-------------|
| Cattle | \$ 2,756.94 |
| Various pieces of farm machinery | 18,876.10 |
| 1977 Ford pick-up truck | 2,500.00 |
| 1989 Ford automobile | 4,875.00 |
| Furniture, fixtures and equipment | 5,000.00 |

REQUESTED DOCUMENTS REGARDING THE ESTATE OF CHRISTINA LEAF:

1. Copies of U.S. Income Tax Return for Estates and Trusts - Form 1041 and all supporting schedules for the Estate of Christina Leaf for the years ended 2000 and 2001.

2. Checking Account:

- a. Copy of canceled check in the amount of \$ 159,941.62 to close individual account of Christina Leaf at Seafirst Bank.
- b. Copy of bank statement for Panhandle State Bank for the initial deposit of \$ 150,421.66 in December 1995.
- c. Copies of monthly bank statements for Panhandle State Bank account from December, 1995 through the date the account was closed or the current date.
- d. Copies of all canceled checks from the account at Panhandle State Bank.
- e. Verification of any and all deposits made to the account at Panhandle State Bank during the dates from December 1, 1995 through the current date.
- f. Supporting documentation for all withdrawals made from the account during the dates from December 1, 1995 through the earlier of the date the account was closed or the current date.
- g. If account was closed, provide documentation of closing.
- h. Support detail and reconciliation between withdrawal from Christina Leaf's Seafirst Bank account in the amount of \$159,941.62 to the amount deposited in Panhandle State Bank in the amount of \$150,421.66, for the Estate of Christina Leaf.

3. New York Life Annuities:

Copies of statements received from the New York Life companies and a list of all

transactions initiated by you from the New York Life companies for the New York Life Insurance policies (annuities) regarding Wilbur A. Leaf (Policy No. N3-201-683) and Christina Leaf (Policy N3-201-681).

4. Other Miscellaneous Deposits:

- a. Copy of Washington Mutual Bank statement for Christina Leaf indicating deposit for \$3,200 proceeds for sale of 1989 Ford Crown Victoria.
- b. Copy of Panhandle State Bank statement indicating deposit in the amount of \$1,500 for proceeds of the 1977 Ford pickup (sold October 28, 1995)

5. Other Bank Accounts:

- a. Copies of bank statements from Horizon Credit Union checking for the period November 1, 1998 through when the account was closed, including cancelled checks and/or drafts.
- b. Copies of bank statements from Horizon Credit Union savings for the period November 1, 1998 through the current date, including cancelled checks and/or drafts.
- c. Copies of bank statements from Wells Fargo Bank for the period October 1, 2000 through the present, including canceled checks.

PROMISSORY NOTES:

1. Detail ledgers of promissory notes or borrowings between Financial Management Services, Inc., Frank L. Chapin, Director, and the Estate of Christina Leaf. Detail should support amount of \$ 620,309.10 as disclosed in the supplemental accounting filed with the Superior Court, State of Washington, dated September 21, 2001.
2. Copies of any and all checks to support loan repayments and copy of bank statement or other valid documentation to support amount repaid or deposited into the Estate of Christina Leaf.
3. Any and all documents supporting detail ledgers, interest calculations or other loan-related accounting procedures.
4. Detail list of any loans or promissory notes made from funds of the Estate of Wilbur A. Leaf or the Estate of Christina Leaf, which includes the original date of the loan, original loan amount, interest rate and total loan balance, as of 5/1/2002.

OTHER REQUESTED DOCUMENTS:

1. Frank L. Chapin, P.A.

- a. Copies of U.S. Individual Income Tax Returns - Form 1040 and all supporting schedules for the years ended December 31, 1988 through the years ended December 31, 1995 prepared for Wilbur and Christina Leaf.
- b. Copies of general ledger detail for the years ended December 31, 1992 through the current date.
- c. Copies of monthly bank statements for all bank accounts, including subsidiary entities or businesses of Frank L. Chapin, P.A. for the period December 31, 1992 through the current date, including canceled checks.
- d. Copies of check registers and detail support for all deposits made to the above referenced bank accounts for the years ended December 31, 1992 through the current date. As noted on the Affidavit of Frank L. Chapin dated January 25, 2002, a bank account existed as of December 31, 2001 under the following:

Frank L. Chapin P.A. Management Trust
 Horizon Credit Union
 Sandpoint, ID
 Account # 32518250698910702789218

- e. Copies of financial statements including balance sheet and income statements for the years ended December 31, 1992 through the current date.
- f. Copies of tax returns for the above named entity for the years ended December 1992 through the present. If no separate tax return filed, we are requesting copies of Frank L. Chapin U.S. Individual Tax Returns, Form 1040 for the years 1992 through 2001.

NOTE: Letter to Laura McAloon dated February 14, 2002 stated Frank L. Chapin, P.A. has two bank accounts. In addition, information previously provided indicates the existence of bank accounts for Advanced Payroll Systems and escrow funds.

2. Financial Management Services, Inc.

- a. Copies of general ledger detail for the period June 20, 1992 through December 31, 1992, and the years ended December 31, 1993 through the current date.
- b. Copies of tax returns for the above named entity for the years ended December 1992 through the present. If no separate tax return filed, we are requesting copies of Frank L. Chapin U.S. Individual Tax Returns, Form 1040 for the years 1992 through 2001.
- c. Copies of check registers and detail support for all escrow fund and/or investment fund deposits made to the above named entity for the years ended December 31, 1992 through the current date.
- d. Copies of all bank statements including canceled checks for the period June 20, 1992

through the current date for any and all bank accounts of the above named entity. As noted on the Affidavit of Frank L. Chapin, dated January 25, 2002, a bank account existed as of December 31, 2001 under the following:

Financial Management Services, Inc.
Horizon Credit Union
Sandpoint, ID
Account # 32518250691070

NOTE: Letter to Laura McAloon dated February 14, 2002 stated Financial Management Services, Inc. has three bank accounts.

- e. All documents, records, receipts and ledgers relative to the Merritt Brothers/Leaf contract escrowed at Financial Management Services, Inc.

3. Frank L. Chapin - Individual and Sydney L. Gutierrez - Individual

- a. Copies of statements, including canceled checks for any and all bank accounts, Individual Retirement Accounts and/or Certificates of Deposit held during the period December 31, 1992 to the present for the above named individuals, jointly or individually.
- b. As noted on the Affidavit of Frank L. Chapin, dated January 25, 2002, bank accounts existed as of December 31, 2001 under the following:

Frank L. Chapin
Idaho Independent Bank
Hayden, ID
Account #1231037320200015345 and

Sydney L. Gutierrez
Horizon Credit Union
Sandpoint, ID
Account # 32518250698910701761317

4. S and F, LLC

- a. Copies of general ledger detail for the period November 20, 1998 through the present.
- b. Copies of tax returns for the above named entity for the years ended December 1998 through the present. If no separate tax return filed, we are requesting copies of Frank L. Chapin U.S. Individual Tax Returns, Form 1040 as noted above.
- c. Copies of check registers and detail support for all deposits made to accounts of the above named entity for period November 20, 1998 through the current date.

- d. Copies of all statements including canceled checks for the period November 20, 1998 through the current date for bank accounts of the above named entity. As noted on the Affidavit of Frank L. Chapin, dated January 25, 2002, a bank account exists under the following:

S and F, LLC
Horizon Credit Union
Sandpoint, ID
Account # 32518250698910702883219

5. Moments, LLC

- a. Copies of general ledger detail for the period July 25, 2001 through the present.
- b. Copies of tax returns for the above named entity for the year ended December 31, 2001. If no separate tax return filed, we are requesting copies of Frank L. Chapin U.S. Individual Tax Returns, Form 1040 as noted above.
- c. Copies of check registers and detail support for all deposits made to accounts of the above named entity for period July 25, 2001 through the current date.
- d. Copies of all bank statements including canceled checks for the period July 25, 2001 through the current date for the above named entity.

6. Real Estate:

- a. Copies of closing statements for the following properties:

Parcel 5400A acquired in November 1998.
Glabb Property - 200 acre ranch
Linden Property - 30 acres
Home Place - 30 acres
Five real estate mortgages created in January 1999 acquired by S and F, LLC

- b. Documentation of the funds used for acquisition of above named properties
- c. Documentation for the funds used to pay mortgages for above named properties
- d. Documentation of the funds used to make any improvements and/or repairs to the above-named properties.